

Finn, Molly

From: Finn, Molly
Sent: Tuesday, March 26, 2013 11:57 AM
To: Robert Atwood
Cc: Tisa, Kimberly; Hensley, Amy
Subject: RE: Questions related to PCB reinterpretation ruling from October 24, 2012.
Attachments: image001.jpg

Mr. Atwood, I have provided answers to your questions regarding the application of the bulk product waste reinterpretation. Kim Tisa of EPA Region 1 has also provided answers to these questions, and I would encourage you to contact Kim with further questions on sampling plans and cleanup plans for specific sites.

1. Does the October reinterpretation apply primarily to off-site disposal? Does it also apply to on-site disposal where PCBs that remain on a building are considered disposal and unauthorized use?
 - a. The reinterpretation applies to the definition of bulk product waste, and it allows contaminated building materials (i.e., substrate) “coated or serviced” with PCB bulk product waste (e.g., caulk, paint, mastics, sealants) at the time of designation for disposal to be managed as PCB bulk product waste. PCB bulk product waste has specific disposal options provided in 40 CFR 761.62.
2. 761.62 references three approaches 1) Performance Based Disposal; 2) Risk Based Disposal or 3) Disposal in solid waste landfills. Does this mean that if you follow the reinterpretation relative to disposal of bulk and remediation waste together, that you may not use or submit a SIP? It has been suggested that one must follow either Performance or Risk Based (ignoring landfill for clarity sake) under the reinterpretation and I believe that one could elect to prepare a SIP and submit it for your review and approval and within that plan, when it comes to off-site disposal you could manage all the waste as bulk waste under the reinterpretation. Am I correct or must you do either Performance or Risk Based (again putting landfill aside for simplicity), and if you do not follow all of the Performance Based criteria under 761.61(b), you must use a Risk Based Submittal to seek approval for deviation from sampling requirements under Subpart N or leaving more than 1 ppm behind?
 - a. As described in answer above, the reinterpretation allows for both PCB-contaminated caulk, paint (i.e., bulk product waste) and attached building material to be managed as PCB bulk product waste. The disposal options for PCB bulk product waste are found in 40 CFR 761.62.

In instances where contaminated building material is not being removed and disposed of, the reinterpretation would not apply. In this situation, the contaminated building material that is no longer “coated or serviced” with PCB bulk product waste would be considered PCB remediation waste. The cleanup and disposal options for PCB remediation waste are found in 40 CFR 761.61

3. 761.62 refers to analytical procedures under Subpart R. It is my understanding that Subpart R applies mostly to sampling for off-site disposal and does not apply to the characterization procedures to be used for preparing a characterization plan in support of either Performance Based or Risk Based approach under the reinterpretation. It is also my understanding the Subpart N would apply to those approaches. Also in order for the plan to meet the requirements of a Performance Based plan, one must abate down to 1 ppm and meet all of the prescriptions of

characterization under Subpart N and post abatement demonstration under Subpart O or P. If a deviation is used, a Risk Based submittal is required. Is this understanding correct?

- a. The reinterpretation does not change any analytical or sampling requirements. It merely includes contaminated building material “coated or serviced” with PCB bulk product waste in the definition of PCB bulk product waste. The requirements for PCB bulk product waste do not change under the reinterpretation.
4. It has been suggested that under the reinterpretation that one could remove caulking without any testing, assume that it is all over 50 ppm and dispose of it all as Bulk Waste and leave whatever is left behind for assessment and removal on another day, thereby ignoring the details of what level you have remediated down to, where PCB impacts may have been left behind and what the exposures left behind may be. It is my understanding that whatever PCB impacted material is left behind would be classified as Remediation Waste, so the forgoing approach seems to be totally inconsistent with a major intent of the reinterpretation and TSCA overall and is not at all protective of human exposures. Is such an approach appropriate?
 - a. Testing is not required under the TSCA PCB regulations. That being said, the best way to determine the type and extent of PCB contamination. Assuming caulk and adjacent material are PCB contaminated and disposing of them together as PCB bulk product waste without testing would not necessarily be contrary to the requirements in the PCB regulations. (If the caulk or adjacent material was contaminated by PCBs as a result of a spill, they would be considered PCB remediation waste rather than PCB bulk product waste.) Any remaining PCB contamination would still need to be addressed appropriately.
5. Alternatively, could you legitimately remove caulk without testing, ship waste off site under the reinterpretation based on the assumption that all material is greater than 50 ppm and then perform post sampling in accordance with Subpart O or P to demonstrate what is left behind, but not deal with what is left behind until you touch it again at another time? I don’t think this meets a Performance Based approach so is it legitimate?
 - a. Any PCB contamination regulated for disposal must be addressed. Working with the EPA Region where the contamination exists is recommended to address the cleanup and disposal of the waste.
6. Can clean-up waste (i.e. PPE &poly etc) be managed as Bulk Waste under the reinterpretations , or is it still remediation waste? I assume liquids must be handles as in the past, correct?
 - a. Cleanup waste and liquids would not be managed as bulk product waste under the reinterpretation.
7. My understanding of the appropriate way to apply the reinterpretation is as follows:
 - If caulking is to be removed, sample and characterize it in accordance with Subpart N, remediate down to 1 ppm, confirm the end point via Subpart O and memorialize those efforts in the record as a Performance Based Plan. Bulk waste and coated or serviced material removed from the building may then be comingled for off-site disposal as Bulk Waste and characterization for off-site disposal is performed by Subpart R, as needed.
 - If preferred, or if you are not going to meet the prescription requirements of the Performance Based approach described above, you must perform a Risk Based approach, submit it to EPA for approval as in the past and then dispose of waste under the reinterpretation rule as Bulk Waste. Also, a SIP could be pursued, if preferred.

- Am I correct with the above and if not where is this wrong?
 - a. If PCB-contaminated caulk at ≥ 50 ppm is removed, it should be managed as PCB bulk product waste. If, after removal of the caulk, building material contaminated by the caulk remains, the building material should be managed as PCB remediation waste. The PCB regulations at 40 CFR 761.61 provides the three options for the cleanup and disposal of PCB remediation waste.
8. One key question here is what level of characterization and what section of 761 should be followed for sampling and preparing the abatement plan referenced in the October memo?
- a. The reinterpretation allows PCB contaminated building material “coated or serviced” with PCB bulk product waste to be managed as PCB bulk product waste. It does not change the sampling or disposal requirements for PCB bulk product waste, nor does it change the sampling or disposal requirements for PCB remediation waste.

From: Robert Atwood [RAtwood@ResourceControls.com]
Sent: Monday, March 11, 2013 5:23 PM
To: Finn, Molly
Subject: Questions related to PCB reinterpretation ruling from October 24, 2012.

Hello, my name is Bob Atwood and I am involved in a number of PCB projects that involve application of the reinterpretation of the Bulk/Remedial waste disposal issue discussed in the EPA’s memo of October 24, 2012. At the close of that memo, a phone number was provided so readers could call for additional information. The person that answered that number today gave me your email address and suggested that I send my questions to you and that you would be able to either answer my questions or direct them to the correct person. Let me start by thanking you in advance for your assistance. I understand that you folks deal with these issues all day, every day, but they are a challenge for us in the implementation community to interpret and properly advise owners on the correct and most cost effective way to proceed. Your help would be greatly appreciated. I am a member of the New England Environmental Business Council that has been very active with this issue for a few years now and I would like to be able to convey your reply to our members at the next meeting on March 26, so a timely response would be greatly appreciated.

Would you please take a look at the following questions and provide a reply?

1. Does the October reinterpretation apply primarily to off-site disposal? Does it also apply to on-site disposal where PCBs that remain on a building are considered disposal and unauthorized use?
2. 761.62 references three approaches 1) Performance Based Disposal; 2) Risk Based Disposal or 3) Disposal in solid waste landfills. Does this mean that if you follow the reinterpretation relative to disposal of bulk and remediation waste together, that you may not use or submit a SIP? It has been suggested that one must follow either Performance or Risk Based (ignoring landfill for clarity sake) under the reinterpretation and I believe that one could elect to prepare a SIP and submit it for your review and approval and within that plan, when it comes to off-site disposal you could manage all the waste as bulk waste under the reinterpretation. Am I correct or must you do either Performance or Risk Based (again putting landfill aside for simplicity), and if you do not follow all of the Performance Based criteria under 761.61(b), you must use a Risk Based Submittal to seek approval for deviation from sampling requirements under Subpart N or leaving more than 1 ppm behind?
3. 761.62 refers to analytical procedures under Subpart R. It is my understanding that Subpart R applies mostly to sampling for off-site disposal and does not apply to the characterization procedures to be used for preparing a

characterization plan in support of either Performance Based or Risk Based approach under the reinterpretation. It is also my understanding the Subpart N would apply to those approaches. Also in order for the plan to meet the requirements of a Performance Based plan, one must abate down to 1 ppm and meet all of the prescriptions of characterization under Subpart N and post abatement demonstration under Subpart O or P. If a deviation is used, a Risk Based submittal is required. Is this understanding correct?

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5. Alternatively, could you legitimately remove caulk without testing, ship waste off site under the reinterpretation based on the assumption that all material is greater than 50 ppm and then perform post sampling in accordance with Subpart O or P to demonstrate what is left behind, but not deal with what is left behind until you touch it again at another time? I don't think this meets a Performance Based approach so is it legitimate?
6. Can clean-up waste (i.e. PPE & poly etc) be managed as Bulk Waste under the reinterpretations , or is it still remediation waste? I assume liquids must be handles as in the past, correct?
7. My understanding of the appropriate way to apply the reinterpretation is as follows:
 - If caulking is to be removed, sample and characterize it in accordance with Subpart N, remediate down to 1 ppm, confirm the end point via Subpart O and memorialize those efforts in the record as a Performance Based Plan. Bulk waste and coated or serviced material removed from the building may then be comingled for off-site disposal as Bulk Waste and characterization for off-site disposal is performed by Subpart R, as needed.
 - If preferred, or if you are not going to meet the prescription requirements of the Performance Based approach described above, you must perform a Risk Based approach, submit it to EPA for approval as in the past and then dispose of waste under the reinterpretation rule as Bulk Waste. Also, a SIP could be pursued, if preferred.
 - Am I correct with the above and if not where is this wrong ?
8. One key question here is what level of characterization and what section of 761 should be followed for sampling and preparing the abatement plan referenced in the October memo?

Thank you again for your assistance. If you are not the correct person, please let me know who the correct person is to communicate with on these questions and when I may expect to have a reply.

Regards;

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